

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Roger Perry Riester,

Petitioner,

v.

David Shinn, et al.,

Respondents.

No. CV-22-00118-PCT-GMS (DMF)

**ORDER
and
DENIAL OF CERTIFICATE OF
APPEALABILITY AND IN FORMA
PAUPERIS STATUS**

Pending before the court is the Report and Recommendation (“R&R”) of Magistrate Judge Deborah M. Fine (Doc. 11) regarding petitioner’s Petition for Writ of Habeas Corpus filed pursuant to 28 U.S.C. § 2254 (Doc. 1). The R&R recommends that the Petition be dismissed with prejudice. The Magistrate Judge advised the parties that they had fourteen days to file objections to the R&R. (R&R at 14 (citing Rules 6, 72, Federal Rules of Civil Procedure; 28 U.S.C. § 636(b)(1); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003))). No objections were filed.

Because the parties did not file objections, the court need not review any of the Magistrate Judge’s determinations on dispositive matters. See 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003); *Thomas v. Arn*, 474 U.S. 140, 149 (1985) (“[Section 636(b)(1)] does not . . . require any review at all . . . of any issue that is not the subject of an objection.”). The absence of a timely objection also means that error may not be assigned on appeal to any defect in the rulings of the Magistrate Judge on any non-dispositive matters. Fed. R. Civ. P. 72(a) (“A party may serve and file objections to the order within 14 days after being served with a

1 copy [of the magistrate's order]. A party may not assign as error a defect in the order not
2 timely objected to.”); *Simpson v. Lear Astronics Corp.*, 77 F.3d 1170, 1174 (9th Cir. 1996);
3 *Phillips v. GMC*, 289 F.3d 1117, 1120-21 (9th Cir. 2002).

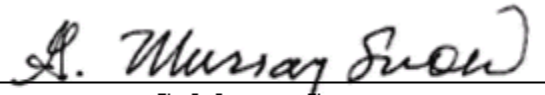
4 Notwithstanding the absence of an objection, the Court has reviewed the R&R and
5 finds that it is well taken. The Court will accept the R&R and dismiss the Petition. *See* 28
6 U.S.C. § 636(b)(1) (stating that the district court “may accept, reject, or modify, in whole
7 or in part, the findings or recommendations made by the magistrate”).

8 **IT IS ORDERED** that Report and Recommendation of the Magistrate Judge
9 (Doc.11) is accepted.

10 **IT IS FURTHER ORDERED** that the Clerk of the Court enter judgment denying
11 and dismissing petitioner's Petition for Writ of Habeas Corpus filed pursuant to 28 U.S.C.
12 § 2254 (Doc. 1) with prejudice. The Clerk shall terminate this action.

13 A request for a certificate of appealability will be denied because dismissal of the
14 Petition is justified by a plain procedural bar and jurists of reason would not find the
15 procedural ruling debatable.

16 Dated this 11th day of August, 2022.

17 
18 _____
19 G. Murray Snow
20 Chief United States District Judge
21
22
23
24
25
26
27
28